**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

109 **2023:PHHC:117522**

**RSA-729-1992
Date of decision: 06.09.2023**

CHAJJU RAM @ SHITAL KUMAR KAUSHIK ..Appellant

Versus

STATE OF HARYANA & ANR. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate
for the appellant.

Ms. Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. The correctness of the concurrent findings of fact arrived at by the Courts below is assailed by the plaintiff in this second appeal. His suit for grant of decree of declaration that the order dated 13.12.1984 passed by the disciplinary authority while stopping his two grade increments with permanent effect has been dismissed.

2. The Courts have found that though the inquiry officer reported that the charges against the appellant were not proved, however, the disciplinary authority while recording the detailed reasons, issued the show cause notice on 27.01.1984 while giving the detailed reasons for his disagreement with the report of the inquiry officer. The appellant was granted liberty to file reply and, thereafter, the disciplinary authority passed the impugned order.

3. In substance, the appellant was working as a Conductor on the bus owned and operated by the Haryana Roadways. He collected fare from the passengers but did not issue the tickets. Some used tickets were also recovered from his bag. Although, the condition of the trial Court record is

not good, however, the relevant part of the show cause notice issued on 27.01.1984, is extracted as under:-

> *"i. The Inspectors under F.S.O. of Haryana Transport work under the supervision and direction of the FSO Physical present of F.S.O. is not a must, while Inspectors under F.S.O. are supposed to act according to directions issued by the F.S.O. and submit report to him. In the present case concerned Inspectors reported the matter to the F.S.O. immediately after detecting the pilferage in revenue.*
>
> *ii. It is very difficult for an Inspector to round up the passengers and record the statement of the alighting passengers. Hardly and passenger prepared to involve himself in such cases and come forward as a prosecution witness.*
>
> *iii. In the present case, the bus was plying from Hissar to Kalka. It was not possible for the Inspecting part to take the conductor to F.S.O. in his office or were ever he could be available and search the conductor bag before him. The bus after all was to leave Chandigarh bus stand for Kalka in time and it was expedient on the part of inspecting party to checkup the bag of conductor at the stop and the act of checking was not beyond their jurisdiction.*
>
> *iv. & v.) The observation of the E.O. in para 4 & 5 of his finding are contradictory. In para 4, E.O. relies on the statement of DW 1 in trying to prove that old tickets were collected by the Inspector from the conductor on 19th September, 1982 but on 18th September, 1982 and thus the Inspector had planned to implicate the conductor. But the statement of DW 1 shows that old tickets were not collected from the conductor but found on the back of the driver seat. Thus the statement of DW 1 and DW 11 are found contradictory on the single issue i.e. where and when the old tickets were detected by the inspecting staff. E.O. should not have relied upon such contradictory statement to derieve conclusion in the finding at para 4 & 5.*
>
> *As a matter of fact E.O. should have taken pains to verify from the office record as to when and where the old tickets (which were found with the conductor) were issued from the box branch. This small enquiry could have cleared all the mist surrounding the case. Now I have verified from the office record that the old tickets of different denm. collected in this case were not issued by the office on 18th Sep, 82 but on different dates.*

> *vi.) Observations of E.O. of para of this findings does not clearly prove Sh. Chhadu Ram conductor innocent of the charges levelled against him. It was the duty of the conductor to get his personal cash entered on the way bill by some officials of the roadways, but he did not disclose any amount which was in his pocket as personal amount.*
> *The statement of the defendant that Shri Ram Kishan, Inspector checked his bus on 19.9.82 at Chandigarh bus on the pretext that he was to claim T.A. does not hold water. It has been verified by the undersigned that Shri Ram Kishan, Ins. was attached to the F.S.O. and he did not claim any T.A. for the whole session (including this month) when he was attached with the F.S.O. Hence question does not arise of collecting tickets for claiming."*

4. On appreciation of evidence, both the Courts have dismissed the suit.

5. The learned counsel representing the appellant contends that the final order passed by the disciplinary authority is not a speaking order and therefore, the same is required to be set aside. He submits that the disciplinary authority was required to pass a speaking order while awarding the major penalty to the appellant.

6. This Court is considered the submissions of the learned counsel representing the parties.

7. The show cause notice issued to the appellant records the elaborate reasons for disagreement of the disciplinary authority with the report of the inquiry officer. The order of punishment has been passed in the continuation thereof. Moreover, in the impugned order, the disciplinary authority has noticed in substance the charges against the appellant and his reply as well as report of the inquiry officer. Thereafter, reference is made to the final show cause notice dated 27.01.1984 and the reply submitted by the appellant.

Further, the appellant while appearing at the time of hearing asked for pardon and undertook not to repeat the mistake.

8. Keeping in view the aforesaid facts, the order passed is not required to be set aside merely on the ground that it is not a speaking order.

9. Hence, no ground to interfere is made out.

10. Dismissed accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

September 06th, 2023 **(ANIL KSHETARPAL)**
Ay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No